

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANTHONY BERNARD DUCKETT,

Plaintiff,

-against-

P.O. DANIEL DEMARCO,

Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/8/2023

1:23-CV-0228 (VEC)

ORDER OF SERVICE

VALERIE CAPRONI, United States District Judge:

Plaintiff Anthony Bernard Duckett, who is presently held in the George R. Vierno Center on Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983 seeking damages. He sues Police Officer Daniel Demarco. By order dated January 12, 2023, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.<sup>1</sup> The Court directs service on Defendant Demarco.

### DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.<sup>2</sup> *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

---

<sup>1</sup> Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

<sup>2</sup> Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served a summons and the complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date that a summons is issued.

To allow Plaintiff to effect service on Defendant Demarco through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant Demarco. The Clerk of Court is further instructed to issue a summons for Defendant Demarco and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant Demarco.

If the complaint is not served on Defendant Demarco within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

#### CONCLUSION

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court also directs the Clerk of Court to issue a summons for Defendant Demarco; complete a USM-285 form with the address for Defendant Demarco; and deliver all documents necessary to effect service on Defendant Demarco to the U.S. Marshals Service.

SO ORDERED.

Dated: February 7, 2023  
New York, New York



---

VALERIE CAPRONI  
United States District Judge

**DEFENDANT AND SERVICE ADDRESS**

Daniel Demarco, Shield No. 3893  
Police Officer  
46th Precinct  
2120 Ryer Avenue  
Bronx, New York 10457-2919